

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JANICE KRAUSE,

Plaintiff,

v.

**CITY OF HOUSTON,
HOUSTON AIRPORT SYSTEM**

Defendant.

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CASE NO. 4:18-cv-03969

NOTICE OF REMOVAL

NOW COME City of Houston (“Houston”) and Houston Airport System (“HAS”), collectively “Defendants”, by and through undersigned, give notice of the removal of these proceedings from the District Court for the 269th Judicial District, Harris County, Texas and represent as follows in support thereof:

PROCEDURAL FACTS

1. On or about September 11, 2018, Plaintiff Janice Krause (“Plaintiff”) commenced an action against Houston and HAS by filing a Petition in the 269th Judicial District Court of Harris County, Texas, where it was docketed as Cause No. 2018-62173. Defendants received service of process on or about September 27, 2018. Consequently, 30 days have not elapsed since Defendants received service of process, thus making this removal timely.

2. The above-described action brought against Defendants by Plaintiff is a civil action brought in a state court involving a federal question over which this Court has original subject matter jurisdiction under the provisions of 28 U.S.C. §

1331, and it is an action that may be removed to this Court by Defendants herein pursuant to the provisions of 28 U.S.C. § 1441 and § 1446.

3. Plaintiff alleges in her Original Petition that she was discriminated against because of a claimed disability and that Defendants' actions constitute violations of the Americans with Disabilities Act (42 U.S.C. § 12102, et seq.) and Texas Commission on Human Rights Act ("TCHRA"). Specifically, Plaintiff alleged that Defendants failed to accommodate her disability and interfered with her ADA and TCHRA rights

4. This Court has original jurisdiction over this action because it appears from Plaintiff's pleadings that this is a civil action that arises under the Americans With Disabilities Act (42 U.S.C. § 12102, et seq.) Plaintiff cites to this statute and related state states as support for her causes of action and as providing the basis for the maintenance of her causes of action.

5. The facts that Plaintiff asserts state law cause of action does not frustrate Defendants' Notice of Removal. The entire action is removable pursuant to 28 U.S.C. § 1367, "Supplemental Jurisdiction", which provides in relevant part.

- (a) Except as [otherwise provided], in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to the claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties.

The state law based allegations in Plaintiff's complaint are so related to her federal claims that they form part of the same case, and these same allegations state a cause within the district court's "original jurisdiction".

6. This Notice has been filed within thirty (30) days from the date Defendants received, through service or otherwise, Plaintiff's Original Petition as required under 28 U.S.C. Section 1446(b)(1).

7. Venue is proper in this district court under 28 U.S.C. Section 1441(a) because the state court where the suit is pending is located in this district.

8. Copies of all pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. Sections 1446(a) and 1447(b) and Local Rule 81 of the United States District Court for the Southern District of Texas.

9. Defendant will promptly file a copy of this Notice and attachments in the state court. 28 U.S.C. Section 1446(d).

10. The filing of this Notice of Removal is not a waiver of any defenses or affirmative matters available to any Defendant under Rule 12 of the Texas Rules of Civil Procedure, Rule 12 of the Federal Rules of Civil Procedure, any state statute, or any federal statute.

11. Plaintiff has demanded a trial by jury.

WHEREFORE, Defendants Houston and HAS respectfully requests the Court to remove the suit in its entirety pending in the District Court for the 269th Judicial District of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

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CITY OF HOUSTON
HOUSTON AIRPORT SYSTEM

CERTIFICATE OF SERVICE

I certify that on October 22, 2018 a true and correct copy of Defendant's **NOTICE OF REMOVAL** was served on all attorneys of record listed below in accordance with the applicable Federal Rules of Civil Procedure via regular mail and certified U.S. mail, return receipt requested.

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/s/ Camela J. Sandmann
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